

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 243

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE TOBACCO PRODUCTS TAX; AMENDING SECTION 63-2551, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 63-2552, IDAHO CODE, TO PROVIDE FOR TAXATION OF LITTLE CIGARS AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 63-2552A, IDAHO CODE, TO PROVIDE THAT A CERTAIN TAX SHALL NOT APPLY TO LITTLE CIGARS, TO DELETE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2551, Idaho Code, be, and the same is hereby amended to read as follows:

63-2551. TOBACCO PRODUCTS TAX – DEFINITIONS. As used in this act:

(1) "Tobacco products" shall mean any cigars (including little cigars), cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco or any substitute therefor, except cigarettes;

(2) "Little cigar" means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substances containing tobacco, other than natural leaf tobacco, and weighs not more than three (3) pounds per thousand, provided that if a product also meets the definition of "cigarette" pursuant to section 63-2502, Idaho Code, it shall be deemed a cigarette and not a little cigar;

(3) "Manufacturer" means a person who manufactures and sells tobacco products;

~~(34)~~ "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers;

(45) "Subjobber" means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers;

~~(56)~~ "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers;

~~(67)~~ "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It

includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this chapter, or for any other purposes whatsoever;

(78) "Wholesale sales price" means the established price for which a manufacturer sells a tobacco product to a distributor that is not a related person as defined in section 267 of the Internal Revenue Code, exclusive of any discount or other reduction;

(89) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state;

(910) "Place of business" means any place where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

(101) "Retail outlet" means each place of business from which tobacco products are sold to consumers;

(1+2) "Commission" means the Idaho state tax commission.

SECTION 2. That Section 63-2552, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552. TAX IMPOSED – RATE. (1) From and after July 1, 1972, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state, other than little cigars that are subject to taxation pursuant to subsection (2) of this section, at the rate of thirty-five ~~per cent~~ percent (35%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

(2) ~~A floor stocks tax is hereby imposed upon every distributor of tobacco products at the rate of thirty five per cent (35%) of the wholesale sales price of each tobacco product in his possession or under his control on July 1, 1972.~~

~~Each distributor, within twenty (20) days after July 1, 1972, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1972, and the amount of tax due thereon.~~

~~The tax imposed by this subdivision shall be due and payable within twenty (20) days after July 1, 1972, and thereafter shall bear interest at the rate of one per cent (1%) per month.~~ From and after May 1, 2009, there is levied and there shall be collected a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale per little cigar equal to one-twentieth (1/20) of the rate imposed per package of twenty (20) cigarettes pursuant to section 63-2506, Idaho Code, as such section may be amended from time to time or pursuant to any successor provision taxing cigarettes. Such tax shall be imposed at the time the distributor: (a) brings, or causes to be brought, into this state from without the state little cigars for sale, (b) makes, manufactures or fabricates little cigars in this state for sale in this state, or (c) ships or transports little cigars to retailers in this state, to be sold by those retailers.

SECTION 3. That Section 63-2552A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED – RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall

1 be collected an additional tax upon the sale, use, consumption, handling, or distribution of all
 2 tobacco products in this state at the rate of five percent (5%) of the wholesale sales price of
 3 such tobacco products. Such tax shall be imposed at the time the distributor:

- 4 (a) Brings, or causes to be brought, into this state from without the state tobacco products
- 5 for sale;
- 6 (b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state;
- 7 or
- 8 (c) Ships or transports tobacco products to retailers in this state to be sold by those
- 9 retailers.

10 The tax imposed pursuant to this section shall not apply to little cigars that are subject to
 11 taxation pursuant to subsection (2) of section 63-2552, Idaho Code.

12 ~~(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report~~
 13 ~~with the commission, in such form as the commission may prescribe, showing the tobacco~~
 14 ~~products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this~~
 15 ~~subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter~~
 16 ~~shall bear interest at the rate of one percent (1%) per month.~~

17 ~~(2)~~ Fifty percent (50%) of the tax collected pursuant to this section shall be subject to
 18 appropriation to the public school income fund to be utilized to facilitate and provide substance
 19 abuse programs in the public school system of which amount two hundred fifty thousand
 20 dollars (\$250,000) shall be remitted annually to the Idaho state police to increase toxicology
 21 lab capacity in the bureau of forensic services for drug testing of juveniles, and fifty percent
 22 (50%) shall be subject to appropriation to the department of juvenile corrections for distribution
 23 quarterly to the counties to be utilized for county juvenile probation services, based upon the
 24 percentage the population of the county bears to the population of the state as a whole. The
 25 moneys remitted to the Idaho state police shall be reviewed annually and any money excess to
 26 the operations needs of the laboratory for juvenile drug testing will be returned to the public
 27 school income fund for substance abuse programs in the public school system. The laboratory
 28 may utilize this increased toxicology capacity for adult drug testing to the extent that timely
 29 testing for juveniles is not adversely impacted.

30 SECTION 4. An emergency existing therefor, which emergency is hereby declared to
 31 exist, this act shall be in full force and effect on and after May 1, 2009.